

12 June 1956

MEMORANDUM FOR: Members of the Office of General Counsel

SUBJECT : Study of Basic Legal Problems of CIA

1. For some time I have wanted to develop a general study of basic legal problems peculiar to this Agency, together with solutions that have been worked out heretofore and suggestions for other possible approaches. There are several background factors:

a. The unique responsibilities and needs of this Agency present legal problems not present in significant degree elsewhere in Government and for which there is a lack of precedent.

b. The special powers, immunities, and exemptions for this Agency and the Director impose upon the Agency, in addition to the normal responsibilities of Government departments, the special responsibility not to abuse our extraordinary position.

c. Those factors, together with the charter of this Office, combine to charge this Office with responsibility, to a greater degree than is the case with the legal staffs of other departments, of passing on basic questions of law and policy and on administrative practices.

d. The law applicable to CIA is a rather specialized field in which only past and present members of this Office have experience.

e. Legal literature which would examine our particular problems with any insight cannot be developed from outside the Agency.

2. It is proposed to undertake such a study within the Office.

3. ASSUMPTIONS. In undertaking the study, it will be assumed that the Agency will continue to occupy its present position in the government structure and will continue to be charged with its present responsibilities, including "to perform such other functions and duties related to intelligence affecting the national security as the National Security Council may from time to time direct." We

need not go behind or query NSC directives.

b. SUBSTANCE. The study would examine the principles and theories of some of our more important legal problems, as well as their practical application. For example, the Confidential Funds pamphlet of January 1953 sets forth the general history and philosophy of the Confidential Funds concept; it might be supplemented now by an analysis of the application of this freedom from normal Government accounting procedures. Under what circumstances and for what purpose has the authority been used? What are safeguards against abuse? In other areas, both theory and application remain to be done.

5. SUBJECTS FOR STUDY. There follows a list of subjects for study which will be assigned to members of the Office.

a. Basic immunities of CIA from statutes.

(1) As a constitutional matter

- (a) inherent powers
- (b) powers as commander-in-chief
- (c) separation of powers.

(2) Derived from basic legislation (NSA and CIA Acts)

- (a) affirmative grants of authority
- (b) "notwithstanding the provisions of any other law" etc., with respect to

(1) existing legislation

(2) new legislation

b. Impact of particular statutes

- (1) Federal Employees Compensation Act
- (2) Civil Service Retirement Acts
- (3) Annual and Sick Leave Act of 1951
- (4) Administrative Expenses Act of 1946
- (5) Internal Revenue Code
- (6) Overseas Allowances Act
- (7) Federal Employees' Group Life Insurance Act of 1954
- (8) Missing Persons Act
- (9) Veterans Preference Act
- (10) Travel Expense Act of 1949
- (11) Federal Property and Administrative Services Act of 1947
- (12) Title 31
- (13) Dual compensation laws
- (14) Conflict of interests laws

c. CIA and Congress, with particular respect to disclosure of information.

e. Crime

- (1) Espionage laws
- (2) Criminal laws relating to mishandling of funds and property
- (3) Laws pertaining to false information and statements
- (4) Title 5, Section 311a

f. Security program

- (1) the general government program; Executive Order 10450
- (2) Section 102(c) of the National Security Act.

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